

June 7, 2017

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Clayton Greene, Jr.

The Honorable Sally D. Adkins

The Honorable Robert N. McDonald,

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this Supplement to the 193rd Report currently set for hearing before the Court on June 20, 2017. There are four categories of proposed changes, only one of which has a substantive element.

Category 1

By Chapter 205 of the 2017 Laws of Maryland, the Department of Human Resources has been renamed the Department of Human Services and the Child Support Enforcement Administration has been renamed the Child Support Administration. By Chapter 214 of the 2017 Laws of Maryland, the Department of Health and Mental Hygiene has been renamed the Maryland Department of Health. Both Acts take effect July 1, 2017 and are included as an Appendix to this Supplement. There are a number of Rules and Forms that mention those agencies, and the Committee recommends that those Rules and Forms be amended to reflect the new names (Rules 4-342, 4-345, 9-102, 9-103, 9-107, 9-112, 11-115, 11-116, 15-1103, 16-207, 19-105, and 19-733 and Forms 9-102.1, 9-102.2, 9-102.3, 9-102.4, 9-102.5, 9-102.6, and 9-102.7). Other amendments to Forms 9-102.2, 9-102.4, and 9-102.5 are included in Category Nine of the 193rd Report.

Category 2

A second Category is the proposed repeal of Rule 19-729 and a conforming amendment to Rule 19-728. In Supplement III to the Committee's 178th Report, which, in part, reorganized and revised the Rules governing the Attorney Grievance Commission, Rule 19-741 was drafted by the Committee as a replacement for Rule 19-729, but both Rules were inadvertently included in the Supplement and approved by the Court. Rule 19-729 should be repealed as obsolete, and the reference to that Rule in Rule 19-728 should be amended to refer to Rule 19-741.

Category 3

Included in Category Two of the 193rd Report is a proposed amendment to Rule 9-205.3 (d)(1), to add a licensed *graduate* social worker to the list of individuals eligible to serve as a custody evaluator. The Committee has recently been advised that in most other States, a licensed *master* social worker has the same or equivalent experience. The Committee recommends that the Rule permit those individuals also be eligible to serve as custody evaluators. By Chapter 549 of the 2017 Laws of Maryland, commencing July 1, 2018, the term "master social worker" will be used in licenses issued by the State Board of Social Work Examiners. A copy of that Act is included in the Appendix to this Supplement.

Category 4

The final category also concerns a Rule included in the 193rd Report. At the request of former Bar Counsel, the Committee approved an amendment to Rule 19-711 to permit Bar Counsel to decline to pursue a complaint that was duplicative of another complaint pending before Bar Counsel. That proposal is included in Category Seven of the 193rd Report. Subsequent to the submission of that Report, upon the request of current Acting Bar Counsel, the Committee approved further amendments to that Rule (1) to allow Bar Counsel to decline to pursue a complaint submitted by an individual who provides information about an attorney derived from news reports or other third-party sources of which the complainant has no personal knowledge, (2) to distinguish between an *inquiry*, which involves a screening complaints to determine whether to proceed further, an actual *investigation*, which would occur only if the screening warranted it, at which point the complaint would be docketed, and (3) to permit Bar Counsel to dismiss a complaint without the approval

of the Attorney Grievance Commission if Bar Counsel determines that an insufficient basis exists to demonstrate misconduct or incapacity or that the circumstances do not warrant an investigation.

For the further guidance of the Court and the public, following the proposed amendments to each Rule is a Reporter's note describing in further detail the reasons for the proposals. *We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation.* They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

/s/

Alan M. Wilner
Chair

AMW:cdc

cc: Bessie M. Decker, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-342 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 4-342. SENTENCING - PROCEDURE IN NON-CAPITAL CASES

. . .

(g) Reasons

The court ordinarily shall state on the record its reasons for the sentence imposed.

Cross reference: For factors related to drug and alcohol abuse treatment to be considered by the court in determining an appropriate sentence, see Code, Criminal Procedure Article, §6-231. For procedures to commit a defendant who has a drug or alcohol dependency to a treatment program in the Maryland Department of Health and Mental Hygiene as a condition of release after conviction, see Code, Health - General Article, §8-507. For procedures to be followed by the court to depart from a mandatory minimum sentence for certain drug-related offenses, see Code, Criminal Law Article, §5-609.1.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 4-342 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-345 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 4-345. SENTENCING - REVISORY POWER OF COURT

. . .

(e) Modification Upon Motion

(1) Generally

Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.

Cross reference: Rule 7-112 (b).

Committee note: The court at any time may commit a defendant who is found to have a drug or alcohol dependency to a treatment program in the Maryland Department of Health and ~~Mental Hygiene~~ if the defendant voluntarily agrees to participate in the treatment, even if the defendant did not timely file a motion

for modification or timely filed a motion for modification that was denied. See Code, Health - General Article, §8-507.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 4-345 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 9-102 to conform to the renaming of the "Department of Human Resources" to the "Department of Human Services," as follows:

Rule 9-102. CONSENTS; REVOCATION OF CONSENT

. . .

(b) Form of Consents, Affidavits of Attorneys, and Disclosure Vetoes

. . .

(4) Disclosure Vetoes

The disclosure vetoes that are required to be attached to the consent forms may be found on the website of the Maryland Department of Human ~~Resources~~ Services.

. . .

REPORTER'S NOTE

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Rule 9-102 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 9-103 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 9-103. PETITION

. . .

(b) Petition for Adoption

. . .

(2) Exhibits

. . .

(B) The following documents shall be filed before a judgment of adoption is entered:

. . .

(viii) A Maryland Department of Health ~~and Mental Hygiene~~ Certificate of Adoption Form.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 9-103 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 9-107 to conform to the renaming of the "Department of Human Resources" to the "Department of Human Services," as follows:

Rule 9-107. OBJECTION

. . .

(b) Time for Filing Objection

. . .

(4) Service by Publication in a Newspaper and on Website

If the court orders service by publication, the deadline for filing a notice of objection shall be not less than 30 days from the later of (A) the date that the notice is published in a newspaper of general circulation or (B) the last day that the notice is published on the Maryland Department of Human ~~Resources~~ Services website.

. . .

REPORTER'S NOTE

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Rule 9-102 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 9-112 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 9-112. COURT RECORDS

. . .

(b) Sealing of Records

All pleadings and other papers in adoption and guardianship proceedings shall be sealed when they are filed and are not open to inspection by any person, including the parents, except upon an order of court. If a final decree of adoption was entered before June 1, 1947 and the record is not already sealed, the record may be sealed only on motion of a party. The clerk shall notify each person entitled to notice that the adoption has been finalized.

Cross reference: See Code, Health - General Article, §4-211, concerning the amendment and replacement of birth certificates following adoption and the requirement that the clerk transmit to the Maryland Department of Health ~~and Mental Hygiene~~ a report of adoption or revocation of adoption.

Source: This Rule is derived from former Rule D80 a and c.

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 9-112 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-115 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 11-115. DISPOSITION HEARING

. . .

c. Placement in a State Mental Hospital

1. Standard for Commitment

A court may not commit a child to the Maryland Department of Health and ~~Mental Hygiene~~ for inpatient care and treatment at a State mental hospital unless the court finds that

(a) the child has a mental disorder, and

(b) the child needs inpatient care and treatment for the protection of himself or others, and

(c) the child is unable or unwilling to be voluntarily admitted to such hospital, and

(d) there is no less restrictive form of intervention available which is consistent with the child's condition and welfare.

2. Order for Evaluation

If the court has reason to believe that a child should be committed to the Maryland Department of Health ~~and Mental Hygiene~~ for inpatient care and treatment at a State mental hospital, it shall order that the child be evaluated, pursuant to Section 3-818 of the Courts Article and Rule 11-105. The order shall require the agency conducting the evaluation to submit a written report setting forth its findings regarding

(a) the extent to which the standard for commitment set forth in subsection c 1 of this Rule is met,

(b) the bases for these findings,

(c) its recommended disposition, and

(d) the reasons for its recommended disposition.

The evaluation shall be conducted on an outpatient basis if, considering the child's condition, that is feasible and appropriate. Where an inpatient evaluation is necessary, the court may authorize the admission of the child to a State mental hospital for a period not to exceed 30 days for the purpose of the evaluation.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 11-115 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-116 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Rule 11-116. MODIFICATION OR VACATION OF ORDER

a. Revisory Power

An order of the court may be modified or vacated if the court finds that action to be in the best interest of the child or the public, except in cases involving commitment of a child to the Maryland Department of Health ~~and Mental Hygiene~~ for placement in a State mental hospital. In cases involving such commitment the court shall proceed as provided in Rule 11-115.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Rule 11-116 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1100 - CATASTROPHIC HEALTH EMERGENCY

AMEND Rule 15-1103 to correct an internal reference, as follows:

Rule 15-1103. INITIATION OF PROCEEDING TO CONTEST ISOLATION OR QUARANTINE

(a) Petition for Relief

An individual or group of individuals required to go to or remain in a place of isolation or quarantine by a directive of the Secretary issued pursuant to Code, Health - General Article, §18-906 or Code, Public Safety Article, §14-3A-05, may contest the isolation or quarantine by filing a petition for relief in the circuit court for the county in which the isolation or quarantine is occurring or, if that court is not available, in any other circuit court.

Committee note: Motions to seal or limit inspection of a case record are governed by Rule ~~16-909~~ 16-910. The right of a party to proceed anonymously is discussed in *Doe v. Shady Grove Hosp.*, 89 Md. App. 351, 360-66 (1991).

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 1-322.1.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 200 - GENERAL PROVISIONS - CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-207 to conform to the renaming of the "Department of Human Resources" to the "Department of Human Services," as follows:

Rule 16-207. PROBLEM-SOLVING COURT PROGRAMS

. . .

(c) Submission of Plan

After consultation with the Office of Problem-Solving Courts and any officials whose participation in the programs will be required, the County Administrative Judge of a circuit court or a District Administrative Judge of the District Court may prepare and submit to the State Court Administrator a detailed plan for a problem-solving court program consistent with the protocols and requirements in an Administrative Order of the Chief Judge of the Court of Appeals.

Committee note: Examples of officials to be consulted, depending on the nature of the proposed program, include individuals in the Office of the State's Attorney, Office of the Public Defender; Department of Juvenile Services; health, addiction, and education agencies; the Division of Parole and Probation; and the Department of Human ~~Resources~~ Services.

. . .

REPORTER'S NOTE

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Rule 16-207 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE

AMEND Rule 19-105 to conform to the renaming of the "Child Support Enforcement Administration" to the "Child Support Administration," as follows:

Rule 19-105. CONFIDENTIALITY

. . .

(c) When Disclosure Authorized

The Board may disclose:

. . .

(11) to the Child Support ~~Enforcement~~ Administration, upon its request, the name, Social Security number, and address of an individual who has filed an application pursuant to Rule 19-202 or a petition to take the attorney's examination pursuant to Rule 19-213.

. . .

REPORTER'S NOTE

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Child Support Enforcement Administration" to the "Child Support Administration." The proposed amendment to Rule 19-105 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

AMEND Rule 19-733 to conform to the renaming of the "Child Support Enforcement Administration" to the "Child Support Administration," as follows:

Rule 19-733. REFERRAL FROM CHILD SUPPORT ~~ENFORCEMENT~~
ADMINISTRATION

(a) Referral

The Commission promptly shall transmit to Bar Counsel a referral from the Child Support ~~Enforcement~~ Administration pursuant to Code, Family Law Article, §10-119.3 (e)(3) and direct Bar Counsel to file a Petition for Disciplinary or Remedial Action in the Court of Appeals pursuant to Rule 19-721 (a)(1). A copy of the Administration's referral shall be attached to the Petition, and a copy of the Petition and notice shall be served on the attorney in accordance with Rule 19-723.

Committee note: The procedures set out in Code, Family Law Article, §10-119.3 (f)(1), (2), and (3) are completed before the referral to the Attorney Grievance Commission.

(b) Show Cause Order

When a petition and notice of referral have been filed, the Court of Appeals shall order that Bar Counsel and the

attorney, within 15 days from the date of the order, show cause in writing why the attorney should not be suspended from the practice of law.

(c) Action by the Court of Appeals

Upon consideration of the petition and any answer to the order to show cause, the Court of Appeals may enter an order:

(1) immediately and indefinitely suspending the attorney from the practice of law, (2) designating a judge pursuant to Rule 19-722 to hold a hearing in accordance with Rule 19-727, or (3) containing any other appropriate provisions. The provisions of Rules 19-741 through 19-744, as applicable, apply to an order under this section that suspends an attorney.

(d) Presumptive Effect of Referral

A referral from the Child Support ~~Enforcement~~ Administration to the Attorney Grievance Commission is presumptive evidence that the attorney falls within the criteria specified in Code, Family Law Article, §10-119.3 (e)(1), but the introduction of such evidence does not preclude Bar Counsel or the attorney from introducing additional evidence or otherwise showing cause why no suspension should be imposed.

(e) Termination of Suspension

(1) On Notification by the Child Support ~~Enforcement~~ Administration

Upon notification by the Child Support ~~Enforcement~~ Administration that the attorney has complied with the provisions of Code, Family Law Article, §10-119.3 (j), the Court of Appeals shall order the attorney reinstated to the practice of law, unless other grounds exist for the suspension to remain in effect.

(2) On Verified Petition by Attorney

In the absence of a notification by the Child Support ~~Enforcement~~ Administration pursuant to subsection (e)(1) of this Rule, the attorney may file with the Court of Appeals a verified petition for reinstatement. The petition shall allege under oath that (A) the attorney is in compliance with the provisions of Code, Family Law Article, §10-119.3 (j) and is not currently in arrears in the payment of child support, (B) at least 15 days prior to filing the verified petition, the attorney gave written notice of those facts to the Child Support ~~Enforcement~~ Administration and requested that the Child Support ~~Enforcement~~ Administration notify the Court, (C) the Child Support ~~Enforcement~~ Administration has failed or refused to file such a notification, and (D) the attorney is entitled to be reinstated. All relevant documents shall be attached to the petition as exhibits. A copy of the petition and exhibits shall be served on Bar Counsel, who shall file an answer within 15 days after service. Upon consideration of the petition and answer, the

Court of Appeals may enter an order reinstating the attorney, an order denying the petition, or any other appropriate order.

(f) Other Disciplinary Proceedings

Proceedings under this Rule shall not preclude (1) the use of the facts underlying the referral from the Child Support ~~Enforcement~~ Administration when relevant to a pending or subsequent disciplinary proceeding against the attorney or (2) prosecution of a disciplinary action based upon a pattern of conduct adverse to the administration of justice.

Source: This Rule is derived from former Rule 16-778 (2016).

REPORTER'S NOTE

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Child Support Enforcement Administration" to the "Child Support Administration." The proposed amendment to Rule 19-733 conforms the Rule to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS

AND ADOPTIONS

AMEND Section I. of Form 9-102.1 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Form 9-102.1. CONSENT OF PARENT TO A PUBLIC AGENCY GUARDIANSHIP

. . .

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the ~~Maryland~~ Secretary of the Maryland Department of Health ~~and Mental Hygiene~~ for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland

Department of Health." The proposed amendment to Form 9-102.1 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS
AND ADOPTIONS

AMEND Section H. of Form 9-102.2 to add certain expenses that may be paid to a parent who is giving up a child for adoption, Section I. to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," and Section J. to conform to the renaming of the "Department of Human Resources" as the "Department of Human Services," as follows:

Form 9-102.2. CONSENT OF PARENT TO A PRIVATE AGENCY GUARDIANSHIP

CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
ADOPTION OF _____ TO
_____, A LICENSED PRIVATE
ADOPTION AGENCY

INSTRUCTIONS

These instructions and attached consent form may be used only in cases where the child is being placed for adoption with the assistance of a licensed private adoption agency. Code, Family Law Article, Title 5, Subtitle 3A.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

. . .

H. Compensation

Under Maryland law, you are not allowed to charge or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except ~~that~~ for (1) reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid, (2) reasonable expenses for transportation for medical care associated with the pregnancy or birth of the child, (3) reasonable expenses for food, clothing, and shelter for a birth mother if, on written advice of a physician, the birth mother is unable to work or otherwise support herself because of medical reasons associated with the pregnancy or birth of the child, and (4) reasonable expenses associated with any required court appearance relating to the adoption, including transportation, food, and lodging expenses.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the ~~Maryland~~ Secretary of the Maryland Department of Health ~~and Mental Hygiene~~ for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human ~~Resources~~ Services for adoption search, contact, and reunion services.

. . .

REPORTER'S NOTE

An Assistant Attorney General pointed out that some expenses that are allowed to be paid to parents who are giving up their child for a private agency or independent adoption have been left out of the consent forms in Forms 9-102.2, 9-102.4, and 9-102.5. These expenses are provided for in Code, Family Law Article, §5-3A-45 and 5-3B-32. The Assistant Attorney General suggested that these expenses be added to Forms 9-102.2, 9-102.4, and 9-102.5.

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Form 9-102.2 conforms the Form to that change.

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Form 9-102.2 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS
AND ADOPTIONS

AMEND Section I. of Form 9-102.3 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Form 9-102.3. CONSENT OF PARENT TO A PUBLIC AGENCY ADOPTION
WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS

. . .

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the ~~Maryland~~ Secretary of the Maryland Department of Health ~~and Mental Hygiene~~ for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland

Department of Health." The proposed amendment to Form 9-102.3 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS

AND ADOPTIONS

AMEND Section H. of Form 9-102.4 to add certain expenses that may be paid to a parent who is giving up a child for adoption, Section I. to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," and Section J. to conform to the renaming of the "Department of Human Resources" as the "Department of Human Services," as follows:

Form 9-102.4. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITH TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF

Independent Adoption with Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are being terminated. It should not be

used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

. . .

H. Compensation

Under Maryland law, you are not allowed to charge or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except ~~that~~ for (1) reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid, (2) reasonable expenses for transportation for medical care associated with the pregnancy or birth of the child, (3) reasonable expenses for food, clothing, and shelter for a birth mother if, on written advice of a physician, the birth mother is unable to work or otherwise support herself because of medical reasons associated with the pregnancy or birth of the child, and (4) reasonable

expenses associated with any required court appearance relating to the adoption, including transportation, food, and lodging expenses.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the ~~Maryland~~ Secretary of the Maryland Department of Health ~~and Mental Hygiene~~ for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human ~~Resources~~ Services for adoption search, contact, and reunion services.

. . .

REPORTER'S NOTE

An Assistant Attorney General pointed out that some expenses that are allowed to be paid to parents who are giving up their child for a private agency or independent adoption have been left out of the consent forms in Forms 9-102.2, 9-102.4, and 9-102.5. These expenses are provided for in Code, Family

Law Article, §5-3A-45 and 5-3B-32. The Assistant Attorney General suggested that these expenses be added to Forms 9-102.2, 9-102.4, and 9-102.5.

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Form 9-102.4 conforms the Form to that change.

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Form 9-102.4 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS

AND ADOPTIONS

AMEND section H. of Form 9-102.5 to include certain expenses that may be paid to a parent who is placing a child for adoption, Section I. to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," and section J. to conform to the renaming of the "Department of Human Resources" as the "Department of Human Services," as follows:

Form 9-102.5. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITHOUT TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption without Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are not being terminated. It should be used for a parent who is retaining parental rights, for example,

a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

. . .

H. Compensation

Under Maryland law, you are not allowed to charge or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive

parent having custody of your child, except ~~that~~ for (1)
reasonable and customary charges or fees for adoption
counseling, hospital, legal, or medical services ~~may be paid,~~
(2) reasonable expenses for transportation for medical care
associated with the pregnancy or birth of the child, (3)
reasonable expenses for food, clothing, and shelter for a birth
mother if, on written advice of a physician, the birth mother is
unable to work or otherwise support herself because of medical
reasons associated with the pregnancy or birth of the child, and
(4) reasonable expenses associated with any required court
appearance relating to the adoption, including transportation,
food, and lodging expenses.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your
child's other parent, or you may apply to the ~~Maryland~~ Secretary
of the Maryland Department of Health ~~and Mental Hygiene~~ for
access to certain birth and adoption records. If you do not
want information about you to be disclosed (given) to that
person, you have the right to prevent disclosure by filing a
disclosure veto. Attached to this document is a copy of the
form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your
child's other parent or siblings, or you may apply to the

Director of the Social Services Administration of the Maryland Department of Human Resources Services for adoption search, contact, and reunion services.

. . .

REPORTER'S NOTE

An Assistant Attorney General pointed out that some expenses that are allowed to be paid to parents who are giving up their child for a private agency or independent adoption have been left out of the consent forms in Forms 9-102.2, 9-102.4, and 9-102.5. These expenses are provided for in Code, Family Law Article, §5-3A-45 and 5-3B-32. The Assistant Attorney General suggested that these expenses be added to Forms 9-102.2, 9-102.4, and 9-102.5.

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Form 9-102.5 conforms the Form to that change.

Chapter 205, Laws of 2017 (HB 103) changes the name of the "Department of Human Resources" to the "Department of Human Services." The proposed amendment to Form 9-102.5 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS

AND ADOPTIONS

AMEND Form 9-102.6 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Form 9-102.6. CONSENT OF CHILD TO A PUBLIC AGENCY ADOPTION OR PRIVATE AGENCY ADOPTION

CONSENT OF _____ TO ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form may be completed only after being reviewed with an attorney and should be completed only by a child who is in the custody of or under the guardianship of the Department of Social Services or under the guardianship of a private child placement agency. Code, Family Law Article, Title 5, Subtitle 3 or 3A.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

. . .

10. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health ~~and Mental Hygiene~~ to get certain birth and adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Form 9-102.6 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS

AND ADOPTIONS

AMEND Form 9-102.7 to conform to the renaming of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health," as follows:

Form 9-102.7. CONSENT OF CHILD TO INDEPENDENT ADOPTION

. . .

D. Right to Revoke Consent

If you sign this consent form and then change your mind and decide that you do not want to be adopted, you may take back or "revoke" your consent. However, you must revoke your consent before the judge signs the adoption order, and you must revoke it either in writing or in court in front of the judge. If you decide you do not want to be adopted, you should write the judge at _____ Circuit Court at _____ (address) immediately, or tell the judge before or at the beginning of your adoption hearing.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature) (Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT OF _____ TO INDEPENDENT ADOPTION

(Name of Child)

Use a pen to fill out this form. If you decide to sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be your parent or the person who is adopting you. You must fill in all the blanks, sign the form, and print your name, address, and telephone number, and the witness must sign and print the witness' name, address, and telephone number in the blanks on the last page.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

. . .

11. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health and Mental Hygiene to get certain birth and

adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

. . .

REPORTER'S NOTE

Chapter 214, Laws of 2017 (SB 82) changes the name of the "Department of Health and Mental Hygiene" to the "Maryland Department of Health." The proposed amendment to Form 9-102.7 conforms the Form to that change.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

DELETE Rule 19-729, as follows:

~~Rule 19-729. PROCEEDINGS IN COURT OF APPEALS~~

~~(a) Oral Argument~~

~~The Court shall set a date for oral argument, unless oral argument is waived by the parties. Oral argument shall be conducted in accordance with Rule 8-522.~~

~~(b) Review by Court of Appeals~~

~~(1) Conclusions of Law~~

~~The Court of Appeals shall review de novo the circuit court judge's conclusions of law.~~

~~(2) Findings of Fact~~

~~(A) If No Exceptions are Filed~~

~~If no exceptions are filed, the Court may treat the findings of fact as established.~~

~~(B) If Exceptions are Filed~~

~~If exceptions are filed, the Court of Appeals shall determine whether the findings of fact have been proved by the requisite standard of proof set out in Rule 19-727 (c). The Court may confine its review to the findings of fact challenged~~

~~by the exceptions. The Court shall give due regard to the opportunity of the hearing judge to assess the credibility of witnesses.~~

~~(c) Disposition~~

~~The Court of Appeals may order (1) disbarment, (2) suspension, (3) reprimand, (4) inactive status, (5) dismissal of the disciplinary or remedial action, or (6) a remand for further proceedings.~~

~~(d) Decision~~

~~The decision of the Court of Appeals is final. The decision shall be evidenced by an order which the clerk shall certify under the seal of the Court. The order may be accompanied by an opinion.~~

~~Source: This Rule is derived from former Rule 16-759 (2016).~~

REPORTER'S NOTE

See the Reporter's note to Rule 19-728.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

AMEND Rule 19-728 by revising an internal reference in section (b) and by adding a new section (e) pertaining to proceedings in the Court of Appeals, as follows:

Rule 19-728. POST-HEARING PROCEEDINGS

(a) Notice of the Filing of the Record

Upon receiving the record, the Clerk of the Court of Appeals shall notify the parties that the record has been filed.

(b) Exceptions; Recommendations; Statement of Costs

Within 15 days after service of the notice required by section (a) of this Rule, each party may file (1) exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule ~~19-729 (e)~~ 19-741 (c), and (3) a statement of costs to which the party may be entitled under Rule 19-709.

(c) Response

Within 15 days after service of exceptions, recommendations, or a statement of costs, the adverse party may file a response.

(d) Form

The parties shall file eight copies of any exceptions, recommendations, and responses. The copies shall conform to the requirements of Rule 8-112.

(e) Proceedings in Court of Appeals

Review in and disposition by the Court of Appeals are governed by Rule 19-741.

Source: This Rule is derived from former Rule 16-758 (2016).

REPORTER'S NOTE

New Rule 19-741, effective July 1, 2016, covers the same topics as Rule 19-729 and was drafted as a replacement for that Rule. Both Rules, however, were inadvertently included in new Title 19, as set forth in the Committee's 178th Report and Supplement to Part III of that Report.

Rule 19-729 is now proposed for deletion. Proposed amendments to Rule 19-728 conform the Rule to that deletion.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT,
AND CHILD CUSTODY

AMEND Rule 9-205.3 (d) to add two categories of professionals to the list of individuals qualified to be custody evaluators, as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

. . .

(d) Qualifications of Custody Evaluator

(1) Education and Licensing

A custody evaluator shall be:

(A) a physician licensed in any State who is board-certified in psychiatry or has completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council;

(B) a Maryland licensed psychologist or a psychologist with an equivalent level of licensure in any other state;

(C) a Maryland licensed clinical marriage and family therapist or a clinical marriage and family therapist with an equivalent level of licensure in any other state; ~~or~~

(D) a Maryland licensed certified social worker-clinical

or a clinical social worker with an equivalent level of licensure in any other state;

(E) (i) a Maryland licensed graduate or master social worker with at least two years of experience in (a) one or more of the areas listed in subsection (d)(2) of this Rule, (b) performing custody evaluations, or (c) any combination of subsections (a) and (b); or (ii) a graduate or master social worker with an equivalent level of licensure and experience in any other state; or

(F) a Maryland licensed clinical professional counselor or a clinical professional counselor with an equivalent level of licensure in any other state.

(2) Training and Experience

In addition to complying with the continuing requirements of his or her field, a custody evaluator shall have training or experience in observing or performing custody evaluations and shall have current knowledge in the following areas:

- (A) domestic violence;
- (B) child neglect and abuse;
- (C) family conflict and dynamics;
- (D) child and adult development; and
- (E) impact of divorce and separation on children and

adults.

(3) Waiver of Requirements

If a court employee has been performing custody evaluations on a regular basis as an employee of, or under contract with, the court for at least five years prior to January 1, 2016, the court may waive any of the requirements set forth in subsection (d)(1) of this Rule, provided that the individual participates in at least 20 hours per year of continuing education relevant to the performance of custody evaluations, including course work in one or more of the areas listed in subsection (d)(2) of this Rule.

. . .

REPORTER'S NOTE

A circuit court judge requested an amendment to Rule 9-205.3 to include another category of professionals who could qualify to be custody evaluators -- licensed clinical professional counselors. The judge noted that these professionals have the requisite education and training to qualify. When this request was discussed with other judges, one of them pointed out that licensed graduate social workers with two years of experience in family issues also could qualify to be custody evaluators. Since then, the General Assembly passed Chapter 549, Laws of 2017 (SB 986), which changed the title of "graduate social worker" to "master social worker." This change will become effective on July 1, 2018.

The Rules Committee recommends that graduate social workers licensed in Maryland or in other states, master social workers licensed in Maryland or other states, and clinical professional counselors licensed in Maryland or other states be added to the list of those who may be appointed or approved by the court to serve as custody evaluators.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEDURES

AMEND Rule 19-711 by changing the words "appropriate investigation" to the words "inquiry concerning" in subsection (b) (1); by permitting Bar Counsel to decline a complaint that is duplicative; by permitting Bar Counsel to decline a complaint instead of dismissing one; by permitting Bar Counsel to decline a complaint submitted by an individual who provides information about an attorney derived from certain sources where the complainant appears to have no personal knowledge of the information being submitted; by providing that unless a complaint is declined, Bar Counsel ordinarily shall obtain a written response from the attorney who is the subject of the complaint and consider other appropriate information to assist in evaluating the complaint; by giving Bar Counsel the discretion to close a file without the approval of the Attorney Grievance Commission if Bar Counsel determines that an insufficient basis exists to demonstrate misconduct or incapacity or that the overall circumstances do not warrant further investigation; in subsection (b)(3), by changing the words "open a file on" to the word "docket," by changing the

words "acknowledge receipt of the complaint" to "notify the complainant," and by changing the word "believe" to the word "support"; by adding a sentence to the Committee note following subsection (b)(3); by permitting Bar Counsel with the approval of the Commission to defer action on a complaint when an investigation of substantially similar or related facts by certain authorities is under way or when there are related allegations in a pending civil or criminal action; and by making stylistic changes, as follows:

Rule 19-711. COMPLAINT; INVESTIGATION BY BAR COUNSEL

(a) Who May Initiate

Bar Counsel may file a complaint on Bar Counsel's own initiative, based on information from any source. Any other individual also may file a complaint with Bar Counsel. Any communication to Bar Counsel that (1) is in writing, (2) alleges that an attorney has engaged in professional misconduct or has an incapacity, (3) includes the name and address of the individual making the communication, and (4) states facts which, if true, would constitute professional misconduct by or demonstrate an incapacity of an attorney constitutes a complaint.

(b) Review of Complaint

(1) Bar Counsel shall make an ~~appropriate investigation of~~ inquiry concerning every complaint that is not facially frivolous, ~~or~~ unfounded, or duplicative.

(2) If Bar Counsel concludes that ~~the~~ a complaint is either without merit, ~~or~~ does not allege facts which, if true, would demonstrate either professional misconduct or incapacity, or is duplicative, Bar Counsel shall ~~dismiss or decline to pursue the~~ dismiss or decline the complaint and ~~shall~~ notify the complainant ~~of the dismissal.~~ Bar Counsel also may decline a complaint submitted by an individual who provides information about an attorney derived from published news reports or third party sources where the complainant appears to have no personal knowledge of the information being submitted.

(3) Unless a complaint is declined for one of the reasons set forth in subsection (b)(2) of this Rule, Bar Counsel ordinarily shall obtain a written response from the attorney who is the subject of a complaint and consider other appropriate information to assist in evaluating the merits of the complaint. If Bar Counsel determines based upon such evaluation that an insufficient basis exists to demonstrate misconduct or incapacity or that the overall circumstances do not warrant investigation, Bar Counsel may close the file without approval of the Commission. Otherwise, subject to subsection ~~(b)(3)~~ (b)(4) of this Rule, Bar Counsel shall (A) ~~open a file on~~ docket

the complaint, (B) ~~acknowledge receipt of the complaint~~ notify the complainant and explain in writing ~~to the complainant~~ the procedures for investigating and processing the complaint, (C) comply with the notice requirement of section (c) of this Rule, and (D) conduct an investigation to determine whether reasonable grounds exist to ~~believe~~ support the allegations of the complaint.

Committee note: In this Rule, "docket" refers to the process of listing a complaint on the docket of active investigations maintained by Bar Counsel, rather than on a docket maintained by the clerk of a court. Before determining whether a complaint is frivolous or unfounded, Bar Counsel may contact the attorney and obtain an informal response to the allegations.

~~(3)~~ (4) If Bar Counsel concludes that a civil or criminal action involving material allegations against the attorney substantially similar or related to those alleged in the complaint is pending in any court of record in the United States, or that substantially similar or related allegations presently are under investigation by a law enforcement, regulatory, or disciplinary agency, Bar Counsel, with the approval of the Commission, may defer action on the complaint pending a determination of those allegations in ~~that~~ the pending action or investigation. Bar Counsel shall notify the complainant of that decision and, during the period of the deferral, shall report to the Commission, at least every six months, the status of the other action or investigation. The

Commission, at any time, may direct Bar Counsel to proceed in accordance with subsection ~~(b)(2)~~ (b)(3) of this Rule.

(c) Notice to Attorney

(1) Except as otherwise provided in this section, Bar Counsel shall notify the attorney who is the subject of the complaint that Bar Counsel is undertaking an investigation to determine whether the attorney has engaged in professional misconduct or is incapacitated. The notice shall be given before the conclusion of the investigation and shall include the name and address of the complainant and the general nature of the professional misconduct or incapacity under investigation. As part of the notice, Bar Counsel may demand that the attorney provide information and records that Bar Counsel deems appropriate and relevant to the investigation. The notice shall state the time within which the attorney shall provide the information and any other information that the attorney may wish to present. The notice shall be served on the attorney in accordance with Rule 19-708 (b).

(2) Bar Counsel need not give notice of investigation to an attorney if, with the approval of the Commission, Bar Counsel proceeds under Rule 19-737, 19-738, or 19-739.

(d) Time for Completing Investigation

(1) Generally

Subject to subsection ~~(b)(3)~~ (b)(4) of this Rule or unless the time is extended pursuant to subsection (d)(2) of this Rule, Bar Counsel shall complete an investigation within 90 days after ~~opening the file on~~ docketing the complaint.

(2) Extension

(A) Upon written request by Bar Counsel and a finding of good cause by the Commission, the Commission may grant an extension for a specified period. Upon a separate request by Bar Counsel and a finding of good cause, the Commission may renew an extension for a specified period.

(B) The Commission may not grant or renew an extension, at any one time, of more than 60 days unless it finds specific good cause for a longer extension.

(C) If an extension exceeding 60 days is granted, Bar Counsel shall provide the Commission with a status report at least every 60 days.

(3) Sanction

For failure to comply with the time requirements of section (d) of this Rule, the Commission may take any action appropriate under the circumstances, including dismissal of the complaint and termination of the investigation.

Source: This Rule is derived from former Rule 16-731 (2016).

REPORTER'S NOTE

At the request of Bar Counsel, several amendments to Rule 19-711 are proposed. An amendment to subsection (b)(1) allows Bar Counsel to make an inquiry concerning every complaint that is not facially frivolous or duplicative. The word "inquiry" replaces the word "investigation," which is a more thorough procedure and only takes place after a complaint has been docketed. Amendments to subsection (b)(2) permit Bar Counsel to decline a complaint that is duplicative of another complaint against the same attorney, alleging the same misconduct. Bar Counsel may also decline a complaint from an individual who has no personal knowledge of the subject matter of a complaint but seeks to be designated as a complainant by filing a complaint based on publicly available information, often with some political motivation or agenda. Bar Counsel would like to have the authority to decline these complaints and not be required to provide these individuals with confidential responses from attorneys, who may be the subject of media reports, when the complainant appears to be driven by a particular political or ideological persuasion or a desire for self-publicity or both.

Proposed new subsection (b)(3) is intended to reflect more accurately the reality of how the Office of Bar Counsel initially screens and reviews complaints before a complaint may reach the "docketed" stage. The new provision expressly recognizes Bar Counsel's discretion to close non-docketed files without the approval of the Attorney Grievance Commission. The latter portion of subsection (b)(3) would incorporate language from current subsection (b)(2) while reflecting the distinctions Bar Counsel makes when a complaint becomes a docketed matter. The subsequent provisions of Rule 19-711 would apply only to docketed complaints, which is how Bar Counsel and the Commission have applied those provisions of the Rule since its inception as former Rule 16-731.

Current subsection (b)(3) of Rule 19-711 gives Bar Counsel, with the approval of the Commission, the authority to defer action on a complaint when there is a civil or criminal action pending in a court of record involving material allegations against the attorney that are substantially similar or related to those alleged in the complaint. Current subsection (b)(3) is relettered subsection (b)(4). Proposed amendments to that subsection expand the authority to defer to include the situations where the allegations in the complaint are (1) "related" to the allegations in the pending civil or criminal

action, or (2) are substantially similar or related to allegations under investigation by a law enforcement, regulatory, or disciplinary agency.